

***United States Court of Appeals
for the
District of Columbia Circuit***



**TRANSCRIPT OF
RECORD**

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Court of Appeals of the District of Columbia.

JANUARY TERM, 1918.

No. 3138.

479

No. ¹³—, SPECIAL CALENDAR.

WILLIAM J. DANTE, TRUSTEE, APPELLANT,

vs.

ROSE KEELING HUTCHINS.

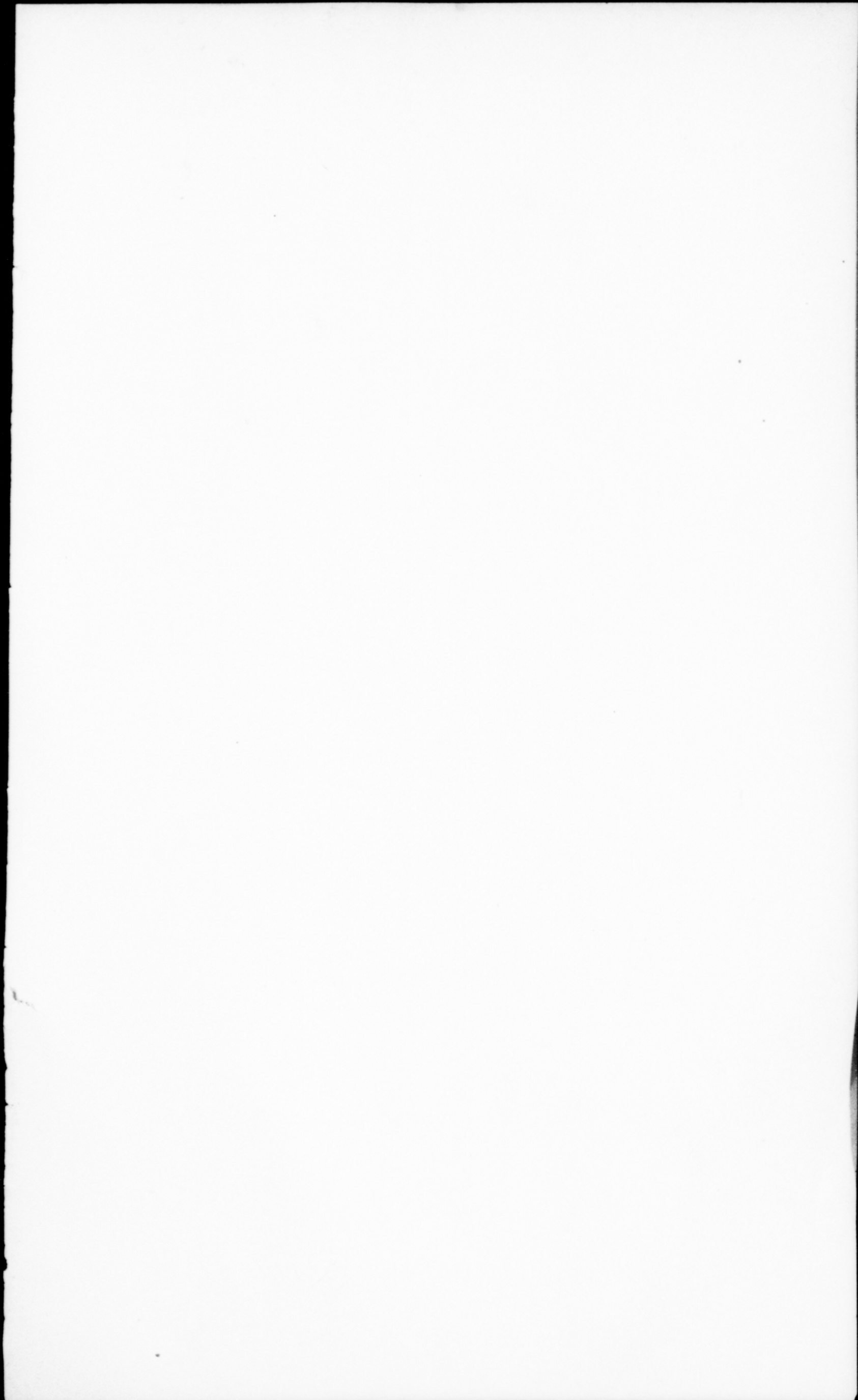
APPEAL FROM THE SUPREME COURT OF THE DISTRICT OF
COLUMBIA.

FILED NOVEMBER 28, 1917.

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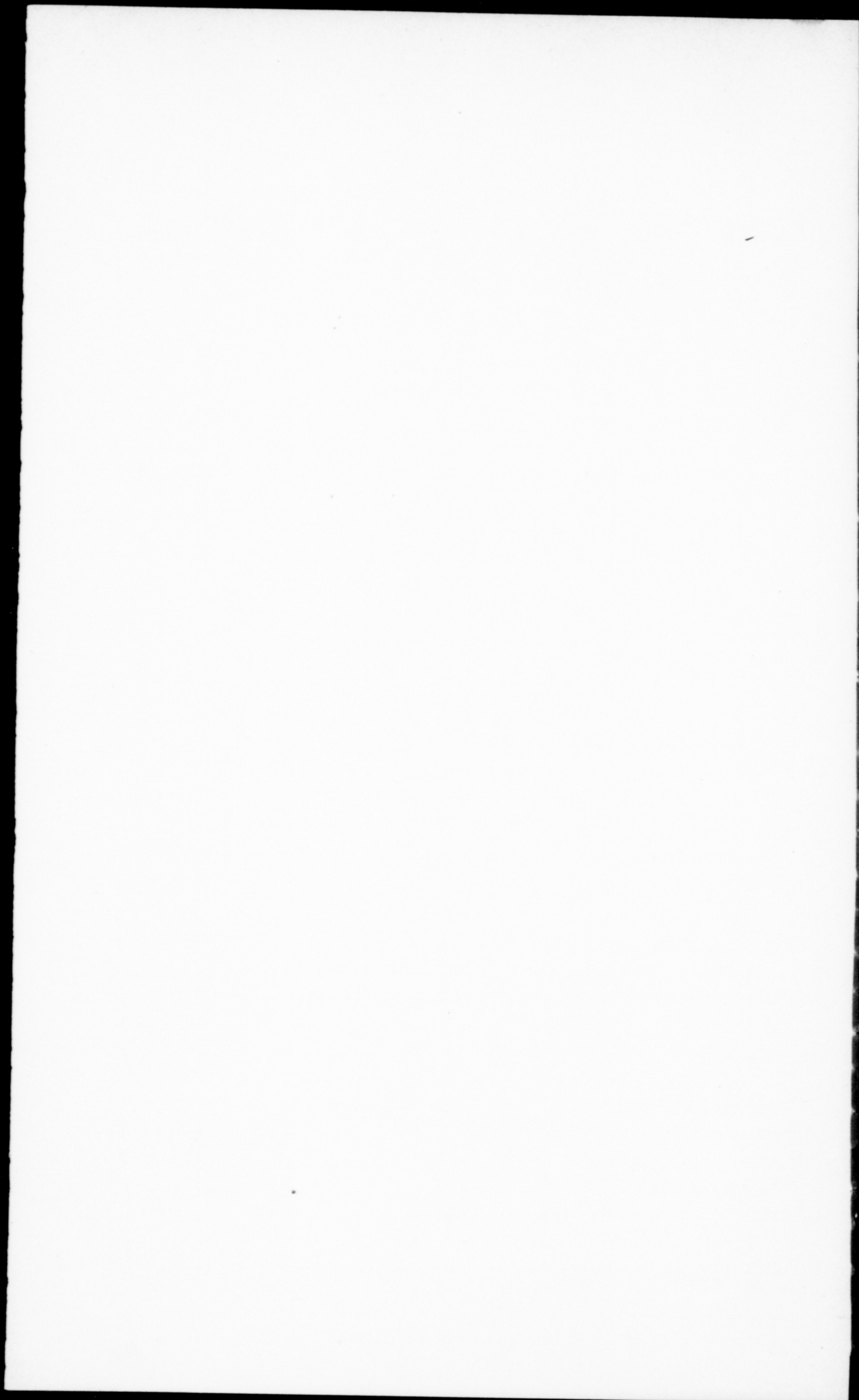
vs.

ROSE KEELING HUTCHINS, APPELLEE.

APPEAL FROM THE SUPREME COURT OF THE DISTRICT OF
COLUMBIA.

INDEX.

	Original. Print	
Caption	<i>a</i>	1
Bill of complaint.....	1	2
Exhibit "A"	9	6
Decree taking jurisdiction, &c.....	15	9
Suggestion of death of Stilson Hutchins.....	17	10
Petition of trustee for instructions, etc.....	18	11
"Exhibit A"	22	13
Consent of Mildred Rogers to purchase property.....	23	13
Answer of Rose Keeling Hutchins.....	23	13
Order of instructions upon petition, filed August 16, 1917.....	24	14
Order allowing special appeal.....	24	14
Assignment of errors.....	25	15
Designation of record.....	26	15
Clerk's certificate	28	16



Court of Appeals of the District of Columbia.

No. 3138.

WILLIAM J. DANTE, Trustee, Appellant,

vs.

ROSE KEELING HUTCHINS.

a . Supreme Court of the District of Columbia.

In Equity. No. 30188.

WILLIAM J. DANTE, Trustee, Plaintiff,

vs.

ROSE KEELING HUTCHINS, WALTER S. HUTCHINS, LEE HUTCHINS,
Mildred Rogers, Infant, and Wm. J. Dante, Administrator, &c.,
and Collector, Defendants.

UNITED STATES OF AMERICA,
District of Columbia, ss:

Be it remembered, That in the Supreme Court of the District of Columbia, at the City of Washington, in said District, at the times hereinafter mentioned, the following papers were filed and proceedings had, in the above-entitled cause, to wit:

Bill of Complaint.

Filed May 19, 1911.

In the Supreme Court of the District of Columbia, Holding an
Equity Court.

No. 30188. In Equity.

WILLIAM J. DANTE, Trustee,

VS.

STILSON HUTCHINS, ROSE KEELING HUTCHINS, WALTER S.
HUTCHINS, LEE HUTCHINS, and MILDRED ROGERS, a Minor.

To the Honorable Supreme Court of the District of Columbia, Hold-
ing an Equity Court:

The complainant respectfully represents:

1. That he is a citizen of the United States and a resident of the District of Columbia, and holds title as trustee under a certain deed from Stilson Hutchins and his wife, Rose Keeling Hutchins, to all of the property and estate of the said Stilson Hutchins, as will hereinafter more particularly appear.

2. That the defendants are all citizens of the United States and residents of the District of Columbia, save and except the said Mildred Rogers, who is an infant under the age of twenty-one years, to-wit, the age of about twenty years, and who is a resident of Contoocook, New Hampshire. That the defendant, Stilson Hutchins is the grantor named in the deed herein referred to, and Rose Keeling Hutchins is his wife, who likewise united in the said deed; that Walter S. Hutchins and Lee Hutchins are sons of the said Stilson Hutchins; and Mildred Rogers is the child of a deceased daughter of the said Stilson Hutchins, and all of the said parties are sued in the capacities as herein set forth.

3. That on the 7th day of March, A. D. 1910, the said defendant Stilson Hutchins, and Rose Keeling Hutchins, his wife, by a certain deed, did convey to your complainant all of the property, real, personal and mixed, of every kind and character, owned by the said Stilson Hutchins, upon the following terms and conditions:

"To have and to hold the said real estate, personal and mixed estate and property hereinbefore set forth unto and to the use of the said Stilson Hutchins, one of the parties of the first part, his heirs and assigns, that is to say, the said party of the second part, is to have the absolute title, charge and control of all of the property hereinbefore described, with power to collect all rents and other incomes arising in or growing out of the said real, personal or mixed property and to do every act and thing necessary for its care, maintenance and preservation, with power and authority to make sale, hypothecate, mortgage, remortgage, release, discharge or incumber any or all of

said property, subject to the condition hereinafter set forth, sue, compromise or compound any action, suit proceeding, difference or demand, employ or discharge persons, or to do every act and thing necessary for the care, preservation, maintenance and otherwise of the said estate and property, the same as the parties of the first part might or could personally do, if present at the doing thereof; the income derived from all of the said property and estate, after
 3 the payment of the taxes and all other necessary charges and expenses arising in or growing out of the care, preservation, maintenance and protection of the same shall be set aside to the use, control, and direction of the said Stilson Hutchins, one of the parties of the first part, during his lifetime, for his use and benefit, subject to the payment by the said trustee to said Rose Keeling Hutchins of the amount directed in a writing of even date herewith. This conveyance is made with the further reservation that no sale or exchange of any of the real property conveyed by this instrument shall be made by the party of the second part without the consent of the parties of the first part in writing first had and obtained which consent is to be made a part of any deed or instrument conveying the same.

"That upon the death of the said Stilson Hutchins, one of the parties hereto of the first part, all of the property conveyed by this conveyance of every kind and character, is to immediately revert to the estate of the said Stilson Hutchins and is to be conveyed, assigned, and turned over by the said party of the second part to any executors or trustees that may be named in the last will and testament of the said Stilson Hutchins for distribution in accordance with the terms thereof the said Rose Keeling Hutchins expressly reserving the right at such time to elect whether she shall take her dower interest therein as allowed by law, or the share to which she may be allotted
 under the last will and testament of the said Stilson Hutchins.

4 "That the said party of the second part, for his services as trustee hereunder is to receive the same compensation as that now paid to him by the said Stilson Hutchins one of the parties of the first part, or such other sum as the said Stilson Hutchins may conclude to be advisable and proper."

as will more fully appear by a reference to the said deed in trust which is hereto annexed and prayed to be made a part hereof.

4. Your complainant represents that for the accommodation of the said Stilson Hutchins and his wife, Rose Keeling Hutchins, and at their request, your complainant accepted the said conveyance upon the terms and conditions therein set forth and said deed was duly delivered by them to the complainant and recorded in the land records of the District of Columbia, at Liber 3302, Folio 436 et seq.

5. Your complainant further represents that the property covered by said deed of conveyance, so transferred assigned and delivered unto your complainant, consists of various pieces and parcels of improved real estate, included in which, among others is the Highlands, the Westmoreland, and the Mount Vernon Apartment Houses, the Le Droit, the Warder, the Builders' Exchange, and the

Hutchins Office Building, also the improved properties known as numbers 608 to 626 Fourteenth Street, Northwest, together with various other pieces and parcels of real estate under rental, located in the District of Columbia, all of which is of very great value; that in addition to the said real estate there was likewise conveyed, transferred, assigned and delivered unto your complainant large blocks of stocks and bonds of various corporations, of great value.

6. That for sixteen years last past, your complainant has been the trusted employee and representative of the said Stilson Hutchins and in such capacity has for many years been charged with the custody, care, and control of the said real estate and personal property; that much of the personal property in the shape of stock was purchased by the said Stilson Hutchins in the name of your complainant and so stood and now stands upon the stock books of such companies; that for many years last past, most of the real estate purchased by the said Stilson Hutchins was likewise at his instance and direction conveyed in fee to your complainant and has for a long time continued and at the time of the execution of the deed hereinbefore referred to stood in his name; that for many years your complainant has been entrusted with the control and management of the said estate at the instance and with the advice and counsel of the said Stilson Hutchins, and that for long periods of time during the absence from the jurisdiction or illness of the said Stilson Hutchins and more especially during the past seven years the management and control of said estate has devolved largely upon your complainant; that he has had charge of the funds of said estate and of all disbursement and expenditure of moneys, and for a long period your complainant has had authority to draw checks upon moneys deposited in bank to the credit of said Stilson Hutchins, and do all acts and things that the said Stilson Hutchins might himself personally have done.

7. Your complainant further represents that ever since the date and delivery of the said deed of conveyance as aforesaid, your complainant has held and managed the property therein conveyed pursuant to the terms thereof and has conducted the affairs and business of the said Stilson Hutchins in the same manner and pursued the same policies in reference thereto in its management, care and maintenance as did the said Stilson Hutchins for many years last past; that for some months after the execution of said deed as aforesaid, he was able to advise and consult with the said Stilson Hutchins and had his approval with reference to the conduct of the affairs of the business of the said Stilson Hutchins; that in the latter part of the year 1910, the physical condition and health of the said Stilson Hutchins became such that it was inadvisable to consult or advise with the said Stilson Hutchins further with reference to the conduct, care and administration of the said estate.

8. Your complainant further represents that the said deed provides that "The income derived from all of the estate and property, after the payment of the taxes and all other necessary charges and

expenses arising in or growing out of the care, preservation, maintenance and protection of the same shall be set aside to the use, control and direction of the said Stilson Hutchins, one of the parties of the first part, during his lifetime, for his use and benefit, subject to the payment by the said trustee to said Rose Keeling Hutchins of the amount directed in a writing of even date herewith;" that acting under the specific directions and the approval of the said Stilson Hutchins, he has made certain specific payments to various parties in accordance with the written and verbal directions received from

the said Stilson Hutchins and in accordance with the custom
7 and practice of the said Stilson Hutchins for many years and that all other moneys have been applied toward the care, upkeep and preservation of said estate and in the liquidation of the indebtedness of the said Stilson Hutchins as it matured from time to time and so far as it was possible with the funds on hand to anticipate the same in accordance with the directions and approval heretofore given by the said Stilson Hutchins.

9. That ever since the deed of conveyance as aforesaid, your complainant rendered monthly accounts of his management of the said trust and the receipts and expenditures on account thereof to the said Stilson Hutchins who has, from time to time, approved the same; that inasmuch as the condition of the health of the said Stilson Hutchins for several months last past has been such that under the advice of physicians your complainant has been unable to communicate or consult with the said Stilson Hutchins, no report or accounts of the said business of the said Stilson Hutchins have been rendered or submitted to his inspection or approval.

10. Your complainant further represents that although for many years he has held title, both to much of the real and personal property, including stocks and bonds of the said Stilson Hutchins, and has had title to all of the estate of the said Stilson Hutchins since the deed hereinbefore set forth, he has at no time been required to give a bond for the faithful accounting of the trust in him reposed by the said Stilson Hutchins or by the said Stilson Hutchins and his wife, Rose Keeling Hutchins, though he has on many occasions offered to the parties in interest to give bond of such
8 amount as they deemed advisable and necessary, but which they have thus far declined to require.

11. Your complainant further represents that the responsibility imposed upon him in the care and management of the estate of the said Stilson Hutchins is very great and that while he has had charge and has satisfactorily managed and directed its affairs for many years, still he was able from time to time to make due report to the said Stilson Hutchins of his action and conduct of the affairs of the said estate and receive approval thereof; that inasmuch as your complainant is now unable to consult and advise with the said Stilson Hutchins and has been unable so to do for some months, and as important matters are constantly presenting themselves for the action of your complainant, he deems it advisable that inasmuch as the said trust is one which may continue for some months or be of long duration and the rights of a minor grandchild may be in-

volved in the administration of the said trust as well as the rights of the wife of the said Stilson Hutchins, and of his two sons, your complainant is advised that it is his right and duty to ask this Honorable Court for leave to administer the trust in him reposed by said deed of conveyance as hereinbefore set forth under the direction of this Honorable Court, and that he may from time to time submit for the consideration of the Court his actions and doings as well as his accounts.

Wherefore your complainant humbly prays:

First. That this Honorable Court take jurisdiction of this matter and that your complainant be permitted to administer the trust of March 7, 1910, from the said Stilson Hutchins and his wife, Rose Keeling Hutchins, under the direction and advice of this Honorable Court.

9 Second. And for such other and further relief as the nature of the circumstances of the case require and to this Honorable Court shall seem proper.

WILLIAM J. DANTE.

BRANDENBURG & BRANDENBURG,
Solicitors for Complainant.

DISTRICT OF COLUMBIA, ss:

William J. Dante upon oath deposes and says that he has read the foregoing petition by him subscribed and knows the contents thereof; that the facts therein stated upon his personal knowledge are true and those stated upon information and belief he believes to be true.

WILLIAM J. DANTE.

Subscribed and sworn to before me this 19th day of May, A. D. 1911.

[SEAL.]

LLOYD A. DOUGLASS,
Notary Public, D. C.

EXHIBIT "A."

This indenture, made this 7th day of March in the year of our Lord one thousand nine hundred and ten, by and between Stilson Hutchins and Rose Keeling Hutchins, his wife, of the City of Washington, District of Columbia, parties hereto of the first part, and William J. Dante, trustee, of the same place, party hereto of the second part.

10 Witnesseth, that the parties of the first part for and in consideration of the sum of Ten (\$10.00) Dollars, in lawful money of the United States of America, in hand paid by the party of the second part, at and before the sealing and delivery of these presents, the receipt of which is hereby acknowledged, have granted, bargained, sold, aliened, enfeoffed, released, assigned and conveyed, and do by these presents grant, bargain, sell, alien, enfeoff, release,

assign and convey unto the said party of the second part, William J. Dante, trustee, his heirs and assigns, all those certain pieces or parcels of land and premises situate and being in the City of Washington and District of Columbia, known and distinguished as and being lots No. 14, 15 and 16 and square 224; lot 12 and part of 14 in square 377; part of lot 7 and of lot 37 square 378; part of lot 108 and square 515; sublots 132 to 141, both inclusive, in square 515; lot 10 in square 293; lots 10, 11 and 12 in square 406; part of lots 7 and 8 in square 406; part of lot 84 square 210; subplot 60 in square 212; part of lot 4, square 181, known as No. 1308 16th Street; lots 69, 801, 9, and subplot 179, in square 2530; lot- 155 and 812 square 2530, known as Highlands Apartment House; parcels of land located on or near Arizona Avenue and known as (Green Springs); together with all stocks bonds, notes, securities, accounts, demands, dues, moneys in Bank or otherwise, as well as all the other property or estate of every kind and character now owned or possessed by the said Stilson Hutchins one of the parties of the first part and to which he holds title or to which he may be the legal

11 or equitable owner, whether in his own name or in the name of William J. Dante, and all other property of every kind and character, real, personal or mixed and wheresoever situated, to which the said Stilson Hutchins holds title, or of which he is the legal or equitable owner, together with all the improvements, ways, easements, rights, privileges, to the same belonging, or in any wise appertaining, and all the remainders, reversions, rents, issues and profits thereof or income therefrom; and all the estate, right, title, interests, claim and demand, either at law or in equity or otherwise however, of the said parties of the first part, of, in, to or out of the same, especially reserving therefrom the household effects and personal property of the said Stilson Hutchins upon premises number 1603 Massachusetts Avenue, Northwest, as well as all horses, carriages, or automobiles, and moneys on deposit in the Riggs National Bank.

To have and to hold the said real estate, personal and mixed estate and property hereinbefore set forth unto and to the use of the said Stilson Hutchins, one of the parties of the first part, his heirs and assigns, that is to say, the said party of the second part, is to have the absolute title, charge and control of all of the property hereinbefore described, with power to collect all rents, and other incomes arising in or growing out of the said real, personal or mixed property and to do every act and thing necessary for its care, maintenance and preservation, with power and authority to make sale, hypothecate, mortgage, remortgage, release, discharge or incumber any or all of said property, subject to the condition hereinafter set forth sue, compromise or compound any action, suit, proceeding, difference or demand, employ or discharge persons, or to do

12 every act and thing necessary for the care, preservation, maintenance and otherwise of the said estate and property, the same as the parties of the first part might or could personally do, if present at the doing thereof; the income derived from all of the

said property and estate, after the payment of the taxes and all other necessary expenses and charges arising in or growing out of the care, preservation, maintenance and protection of the same shall be set aside to the use, control and direction of the said Stilson Hutchins, one of the parties of the first part, during his lifetime, for his use and benefit, subject to the payment by the said trustee to said Rose Keeling Hutchins of the amount directed in a writing of even date herewith. This conveyance is made with the further reservation that no sale or exchange of any of the real property conveyed by this instrument shall be made by the party of the second part without the consent of the parties of the first part in writing first had and obtained, which consent is to be made a part of any deed or instrument conveying the same.

That upon the death of the said Stilson Hutchins one of the parties hereto of the first part, all of the property conveyed by this conveyance, of every kind and character, is to immediately revert to the estate of the said Stilson Hutchins and is to be conveyed, assigned, and turned over by the said party of the second part to any executors or trustees that may be named in the last will and testament of the said Stilson Hutchins for distribution in accordance with the terms thereof; the said Rose Keeling Hutchins expressly reserving the right at such time to elect whether she shall take her
13 dower interest therein as allotted by law, or the share to which she may be allotted under the last will and testament of the said Stilson Hutchins.

That the said party of the second part, for his services as trustee thereunder is to receive the same compensation as that now paid to him by the said Stilson Hutchins one of the parties of the first part, or such other sum as the said Stilson Hutchins may conclude to be advisable and proper.

And the said parties of the first part, for themselves, their heirs, executors and administrators do hereby covenant, promise and agree to and with the said party of the second part, his heirs and assigns, that they, the said parties of the first part, their heirs, shall and will warrant and forever defend the said pieces or parcels of ground and premises or appurtenances and the other estate and property hereby conveyed, unto the said party of the second part, his heirs and assigns, from and against the claims of all persons, claiming or to claim the same or any part thereof, by, from, under or through the said parties of the first part.

And, further, That they, the said parties of the first part, and their heirs, shall and will, at any and all times hereafter, upon the request and at the cost of the said party of the second part, his heirs and assigns, make and execute all such other Deed or Deeds, or other assurances in law, for the more certain and effectual conveyance of the said pieces or parcels of ground and premises and appurtenances or the other property, real, personal or mixed herein conveyed unto the
14 said party of the second part, his heirs or assigns, as the said party of the second part, his heirs or assigns, or his counsel, learned in the law shall advise, devise or require.

In testimony whereof, the said parties of the first part have here-

unto set their hands and seals on the day and year first hereinbefore written.

(Sig.)

STILSON HUTCHINS.

[SEAL.]

ROSE KEELING HUTCHINS.

[SEAL.]

Witness-:

AMY LOUISE WOOD.

LLOYD A. DOUGLASS.

CITY OF WASHINGTON,

District of Columbia, ss:

I, Lloyd A. Douglass, a Notary Public, in and for the District aforesaid, do hereby certify that Stilson Hutchins and Rose Keeling Hutchins parties to a certain deed, bearing date on the 7th day of March, A. D. 1910, and hereunto annexed, personally appeared before me in the aforesaid District, the said Stilson Hutchins and Rose Keeling Hutchins, being personally well known to me as the persons who executed the said deed and conveyance and acknowledged the same to be their act and deed.

Given under my hand and notarial seal this 7th day of March, A. D. 1910.

[NOTARIAL SEAL.]

LLOYD A. DOUGLASS, [SEAL.]

Notary Public, D. C.

15

Decree Taking Jurisdiction, &c.

Filed November 13, 1911.

* * * * *

This cause coming on to be heard upon the bill of the complainant, William J. Dante, Trustee, and the answers of the defendants, Nathaniel Wilson, guardian ad litem of the defendant, Stilson Hutchins, Rose Keeling Hutchins, Walter S. Hutchins, Lee Hutchins, and William R. Kennedy guardian ad litem of Mildred Rogers, and after argument, it is by the Court this 13th day of November, 1911, adjudged, ordered and decreed

1. That this Court take jurisdiction of said cause and that the said trustee be and he is hereby authorized to administer the trust as set forth in said deed in trust dated March 7, 1910, under the direction and supervision of this Court;

2. That the trustee be and he is hereby authorized and directed to file in this cause a corporate bond in the sum of \$125,000 for the faithful performance of his trust, and that he take credit for the cost of the premium thereon in his accounts;

3. That within ten days from the date hereof the trustee is directed to file in this cause a full and detailed statement of account which will cover the following:

a. All the personal and real property which came into his hands at any time under the terms and conditions of the deed in trust of March 7, 1910;

13 *b.* Any and all obligations entered into by him in relation to any of the property or estate held in trust, since March 7, 1910;

c. All of the mortgages or deeds of trust against said property, by whom made and whether assumed by Stilson Hutchins or not;

d. Receipts and disbursements of any and all funds that have come into his hands, as trustee, since March 7, 1910;

e. An inventory showing the real and personal property now held by him and embraced in said trust.

4. That the defendant Rose Keeling Hutchins is hereby authorized to submit to Nathaniel Wilson, guardian ad litem of Stilson Hutchins, such unpaid bills in relation to the maintenance of the household of the defendant Stilson Hutchins, contracted prior to October 2, 1911, as are claimed by her to be properly chargeable against and payable out of the estate of said Stilson Hutchins, which said bills when so presented shall be referred to the complainant for advice and recommendation, and if there be no objection thereto from any of the parties herein, the said trustee be and he is hereby authorized to pay the same out of the estate of said Stilson Hutchins, provided further that such bills which are not so paid, shall be submitted to the Court for its further action.

HARRY M. CLABAUGH,
Chief Justice.

17 *Suggestion of Death of Stilson Hutchins.*

Filed June 12, 1914.

* * * * * *

And now come Zachariah T. Sowers, William Gerry Morgan, Smith Ely Jelliffe, Joseph P. Leidy, Joseph R. Fague; John C. Gittings and Justin Morrill Chamberlain, co-partners under the name and style of Gittings and Chamberlain, Madame L. Miniggio, and Maison Agnes, petitioners and parties in the above cause and suggest the death of Stilson Hutchins, defendant in the above cause, on the 21 day of April 1912, and further that on 5th day of May 1913 William J. Dante was appointed administrator ad litem of the estate of the said Stilson Hutchins, by the Supreme Court of the District of Columbia, holding a Probate Court for said District, and further that said William J. Dante was on the 14 day of June 1912 appointed Collector of said estate of said Stilson Hutchins by the Supreme Court of the District of Columbia holding a Probate Court for said District, and said parties ask that said William J. Dante, as Administrator ad litem and as Collector be made party defendant in the place and stead of said Stilson Hutchins, and that a subpoena issue from the Clerk's Office of this Honorable Court, directed against said William J. Dante, Administrator ad litem and Collector, as provided by law.

CORRY M. STADDEN,
MASON N. RICHARDSON,
Attorneys.

Petition of Trustee for Instructions, etc.

Filed August 16, 1917.

* * * * *

The Petition of William J. Dante, Trustee, respectfully states:

1. By instrument dated June 15, 1888, and recorded in Liber 1321, folio 300 et seq., of the Land Records of the District of Columbia, Stilson Hutchins acquired certain real estate situate on D Street North-West between 9th & 10th Streets, Washington, D. C., improved by a five-story brick building known as the Hutchins Building. Said instrument conveyed only a leasehold interest in certain portions of the land covered by said building, but conveyed a fee simple in other portions. The annexed diagram, marked "Exhibit A", shows in blue the portions conveyed in fee simple, further shows in red the portion in which a leasehold was conveyed expiring June 28, 1917, and also shows in green further portion in which a leasehold was conveyed expiring May 2, 1892 and by successive renewals continued to June 28, 1917 and still further renewed by this petitioner until October 1, 1917. The portion marked in red is not essential to the conservation of the estate, because the stair-case is upon the portion marked in blue and the portion marked in red is not needed in order to make a complete building. But the portion marked in green interrupts the completeness of the portion marked in blue which this Estate already owns in fee and gives it an anomalous status. In fact, the offices on the second floor of the building, which are used by this petitioner in performing the
19 duties of the trusteeship herein, will be broken up by the loss of the portion marked in green upon said exhibit. Moreover, in the renewal lease of April 25, 1894 between Helen Hill McCalla and John M. McCalla, trustee, of the first part, and Stilson Hutchins, of the second part, it was expressly provided:

"Said party of the second part further covenants and agrees at the expiration of the term of this lease, or at the termination of any renewal thereof, to brick up the doorways now existing between the premises leased and the residue of the Hutchins building, on the first, second and third floors thereof, also to erect in the cellar of the leased premises a strong prop or support for the floor, and to erect and construct, at his expense, a single stairway from the first to the second, and from the second to the third stories of the leased premises, with partitions and doors complete on each of said floors, first, second and third, according to the sketch or plan hereto annexed, and signed by the parties to this agreement, the doorways one on each floor to be either at the front or the rear end of the partition walls or passage ways as said John M. McCalla, trustee, or his successor in the trust, may elect."

Said provision related exclusively to the portion marked in green on the aforesaid exhibit, and petitioner believes that the cost of complying with said provision would probably exceed the sum of \$2,000.

Furthermore, said renewal lease contained the following additional provision relating to said portion marked in green upon said exhibit:

"Said party of the second part further covenants and agrees at and after the expiration of the term of this lease, or any renewal thereof, in addition to the construction of the improvements aforesaid, to suffer and permit the said McCalla, trustee, or his successor in the trust, to have free access to the fourth and fifth stories of the premises hereby leased, over and through the main stairway and the elevator then existing in and upon the residue of said Hutchins building, if the said party of the second part shall then be the owner or have control thereof, for the term of five years."

2. Said portion marked in green upon said exhibit embraces the east 2.25 feet of Lot 37, and all of Lot 38, in Square 378, Washington, D. C., being in all 22.25 feet in width by a uniform depth of 40 feet, and covering 890 square feet. It is petitioner's belief that the conservation of this Estate requires the acquisition of said portion of land in order to make the Hutchins Building complete, and also in order to avoid the loss which will otherwise be incurred by this Estate under the above quoted provisions of said renewal lease. Acting upon this belief, petitioner has been negotiating with a view to obtaining favorable terms of purchase, and has recently received the following letter:

"H. L. Rust,
Real Estate Loans & Insurance,
1400 H Street N. W.,
Washington, D. C.

JULY 19, 1917.

Mr. W. J. Dante, Hutchins Building, Washington, D. C.

DEAR SIR: Your letter of the 13th instant stating that you wanted to reduce your offer for the 'D' Street property to \$12,500, was referred to Mr. Goldsborough, and he requests me to say that he will accept \$12,500 cash, provided the purchase can be closed at an early day, and wishes you to take steps at once toward that end.

Very truly yours,

H. L. RUST."

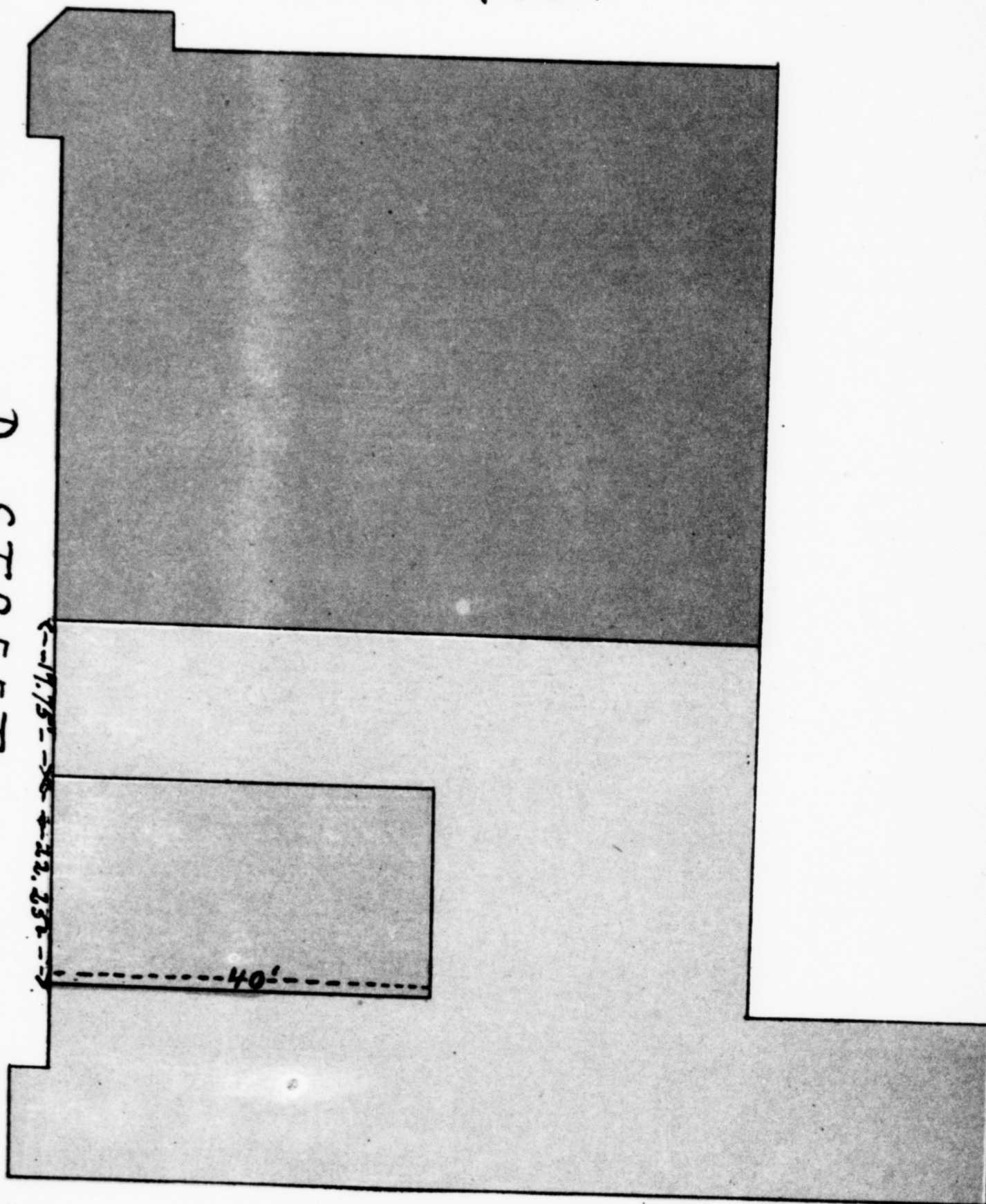
Said letter refers to the aforesaid east 2.25 feet of said Lot 37 and all of said Lot 38, Square 378. Petitioner believes this to be a reasonable purchase price, and to be particularly advantageous to this Estate. Said portion is assessed for taxation at \$10,120. Exclusive of the office room occupied by petitioner, and also excluding two other rooms which are vacant, said portion is producing a gross rental of \$1,020 annually. All of the parties in interest herein have signified their approval of this purchase, with the exception of Rose Keeling Hutchins.

3. Petitioner strongly recommends the making of this purchase. Some of the parties interested in said property are infants, and on that account a Court proceeding will be requisite to complete the

"EXHIBIT A".

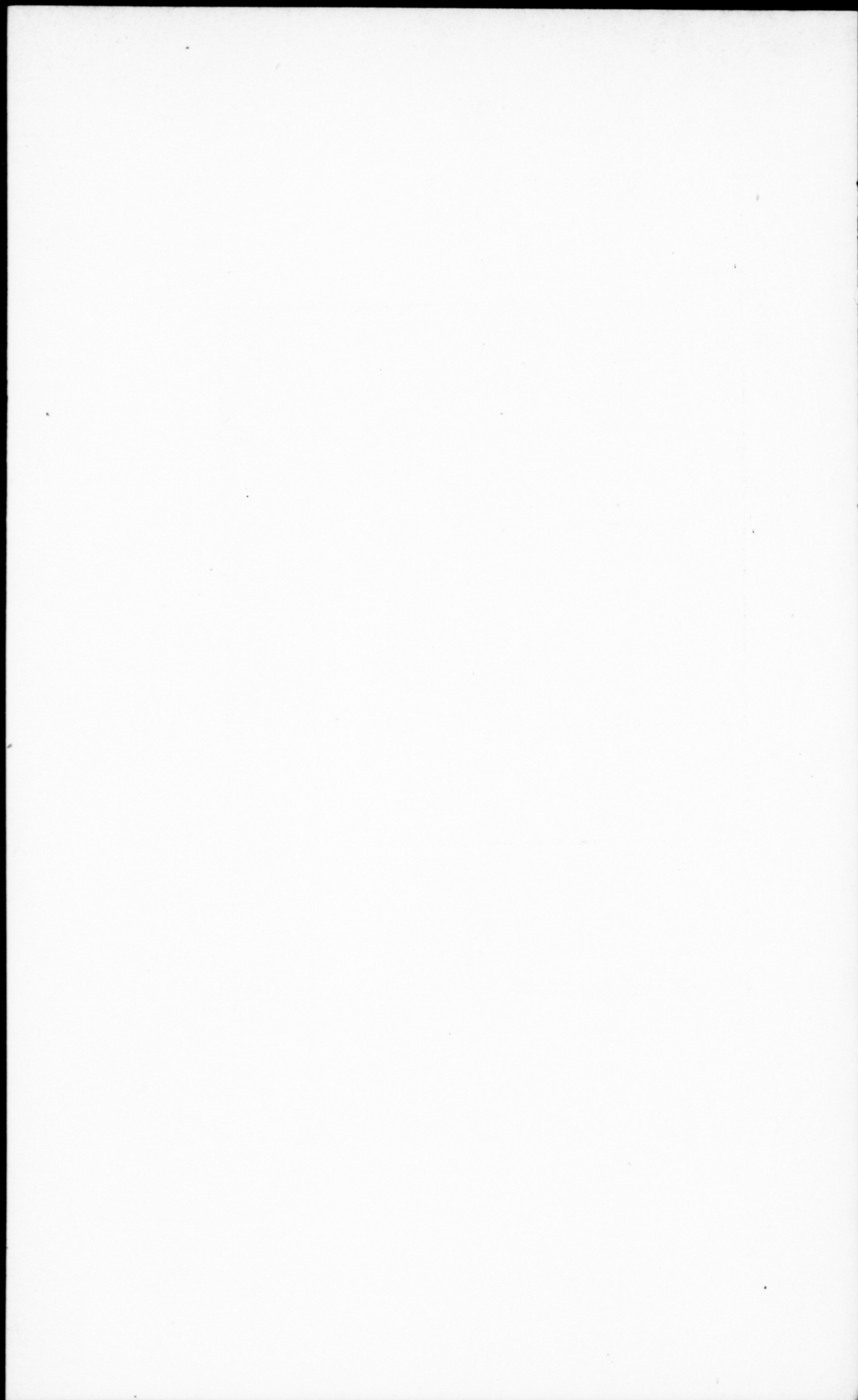
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No. 3, 38.

Daute }
vs. } page 22.
Hutchins }



purchase after this Court shall have authorized petitioner (if it decides so to do) to make said purchase.

Wherefore, the premises considered, petitioner prays the instructions of the Court.

WILLIAM J. DANTE,
Trustee.

GEO. E. SULLIVAN,
Attorney for Trustee.

DISTRICT OF COLUMBIA, ss:

William J. Dante, being first duly sworn, deposes and says that he has read the foregoing Petition by him subscribed, and knows the contents thereof; and that he verily believes the facts therein stated to be true.

WILLIAM J. DANTE.

Subscribed and sworn to before me this 15 day of August, 1917.

[SEAL.] J. WM. REILY,
Notary Public in and for the District of Columbia.

(Here follows drawing marked page 22.)

23 *Consent of Mildred Rogers to Purchase Property.*

Filed September 28, 1917.

* * * * *

I hereby consent to the purchase herein of East 2.25 ft. of Lot 37, and all of Lot 38, Square 378, Washington, D. C., in accordance with the Petition of William J. Dante, Trustee, filed in this cause August 16, 1917.

MILDRED ROGERS.

Answer of Rose Keeling Hutchins.

Filed September 28, 1917.

* * * * *

Rose Keeling Hutchins in answer to the Trustee's petition for authority to purchase certain real estate respectfully states as follows:

1st. That she objects to any of the funds of this estate, in which she is interested, being invested in real estate and denies this Court's jurisdiction to make, or authorize the Trustee to make, such an in-

vestment as is sought by the trustee's petition under the guise of conservation of the estate.

JOHN C. GITTINGS,
Attorney for Rose Keeling Hutchins.

24 *Order of Instructions Upon Petition Filed August 16, 1917.*

Filed September 28, 1917.

* * * * * *

Upon consideration of the Petition of William J. Dante, Trustee, filed herein August 16, 1917, and of the consents in open Court of Walter Stilson Hutchins and Lee Hutchins, by their respective counsel, and the consent in writing of Mildred Rogers, and also of the answer of Rose Keeling Hutchins in opposition. It is, by the Court, this 28th day of September, 1917, Adjudged and Ordered, that William J. Dante, Trustee, be, and he is hereby, instructed not to make the purchase suggested in said Petition, the Court deeming the proposed purchase to be beyond the Court's jurisdiction for conservation, though wise as a business proposition.

WENDELL P. STAFFORD,
Justice.

Order Allowing Special Appeal.

Filed November 6, 1917.

Court of Appeals of the District of Columbia, October Term, 1917.

No. 490, Original Docket.

* * * * * *

On consideration of the petition for the allowance of a special appeal in the above entitled cause from the order of the Supreme Court of the District of Columbia entered therein on the 28th day
25 of September, A. D. 1917, It is by the Court this day ordered that said petition be and the same is hereby granted.

PER MR. CHIEF JUSTICE SMYTH.
November 5, 1917.

A true Copy.

Test:

[SEAL.]

HENRY W. HODGES,
*Clerk of the Court of Appeals
of the District of Columbia.*

Assignment of Errors.

Filed November 8, 1917.

* * * * *

Comes now William J. Dante, Trustee, the appellant upon special appeal allowed from order of September 28, 1917, and files the following assignment of errors, to said order:

1. The Court erred in instructing the appellant not to make the purchase suggested in his petition filed August 16, 1917.
2. The Court erred in deeming the proposed purchase to be beyond the Court's jurisdiction for conservation.
3. The Court erred in not instructing the appellant to make the purchase suggested in his petition filed August 16, 1917.

GEO. E. SULLIVAN,
Attorney for William J. Dante,
Trustee, Appellant.

26 Service of a copy of the foregoing acknowledged this 8th day of November, 1917.

JOHN C. GITTINGS,
Attorney for Rose Keeling Hutchins.

Designation of Record.

Filed November 8, 1917.

* * * * *

The Clerk will please prepare the following as the transcript of record for use in the special appeal allowed by the Court of Appeals from order herein of September 28, 1917:

1. Original bill filed May 19, 1911, and Exhibit.
2. Decree of November 13, 1911, taking jurisdiction.
3. Suggestion of Stilson Hutchins' death—June 12, 1914.
4. Petition of Trustee filed August 16, 1917 as to proposed purchase in Square 378, and Exhibit.
5. Consent thereto of Mildred Rogers, filed Sept. 28, 1917.
6. Answer of Rose Keeling Hutchins filed Sept. 28, 1917, objecting to said proposed purchase.
7. Order of September 28, 1917 upon aforesaid petition filed August 16, 1917.
8. Order allowing special appeal from said order.
9. Assignment of errors.
10. This designation, and accompanying notice and ac-

27

GEO. E. SULLIVAN,
Attorney for William J. Dante,
Trustee, Appellant.

John C. Gittings, Esq., Attorney for Rose Keeling Hutchins:

Take notice that I have this 8th day of November, 1917, filed the foregoing designation under special appeal allowed by the Court of Appeals from order of Sept. 28, 1917. If you desire that it be supplemented, you will indicate same to the Clerk.

GEO. E. SULLIVAN,
Attorney for Appellant.

Service of the foregoing Designation and Notice acknowledged this 8th day of November, 1917.

JOHN C. GITTINGS,
Attorney for Rose Keeling Hutchins.

28 Supreme Court of the District of Columbia.

UNITED STATES OF AMERICA,
District of Columbia, ss:

I, John R. Young, Clerk of the Supreme Court of the District of Columbia, hereby certify the foregoing pages numbered from 1 to 27, both inclusive, to be a true and correct transcript of the record, according to directions of counsel herein filed, copy of which is made part of this transcript, in cause No. 30188 in Equity, wherein William J. Dante, Trustee, is Plaintiff and Rose Keeling Hutchins, et al. are Defendants, as the same remains upon the files and of record in said Court.

In testimony whereof, I hereunto subscribe my name and affix the seal of said Court, at the City of Washington, in said District, this 26th day of November, 1917.

[Seal Supreme Court of the District of Columbia.]

JOHN R. YOUNG, *Clerk.*

Endorsed on cover: District of Columbia Supreme Court. No. 3138. William J. Dante, Trustee, appellant, vs. Rose Keeling Hutchins. Court of Appeals, District of Columbia. Filed Nov. 28, 1917. Henry W. Hodges, clerk.

